

AUG 11 2006

001

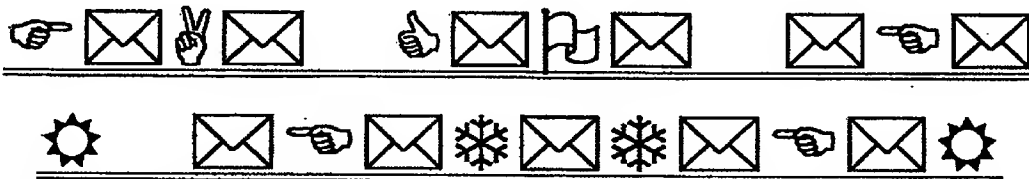
IR3320

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\*\*\* TX REPORT \*\*\*  
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JOB NO. 1001  
ST. TIME 08/10 20:56  
PGS. 17  
SEND DOCUMENT NAME  
TX/RX INCOMPLETE -----  
TRANSACTION OK -----  
ERROR 17038729306

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*Resend to Main Fax #  
571 273-8300 -*



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Sender : **PENINSULA IP GROUP**  
Date : **August 10, 2006**  
To : **United State Patent and Trademark Office**  
Attention : **MS Issue Fee**  
Fax Telephone No : **(703) 872-9306**  
SERIAL NO. : **09/996,342**  
Enclosed : **Transmittal of Petition to Withdraw (3); 312 Response (9); 312 Receipt Acknowledgement (1); & Interview Summary Record 3-39-06 (3).**

*Please forward to*

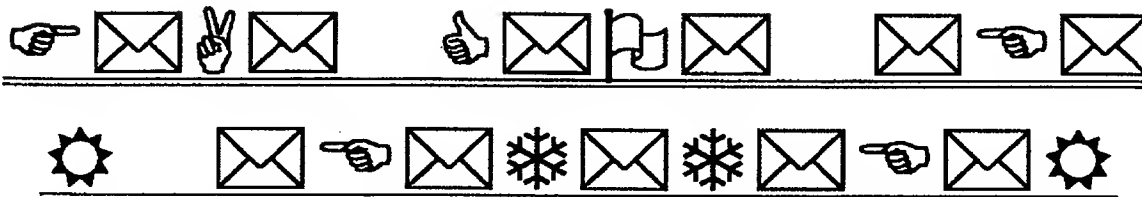
Number of pages including this cover page : 17

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***Thank you for your anticipated cooperation.***

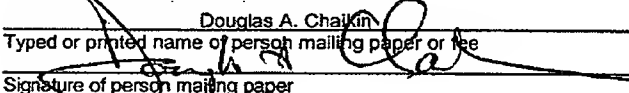
AUG 11 2006

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:  <b>THOMAS EUGENE WACHURA</b>  SERIAL NUMBER: <b>09/996,342</b>  FILED: <b>November 21 2001</b>  FOR: <b>APPARATUS AND METHOD FOR SAMPLING EYE DIAGRAM WITH WINDOW COMPARATORS</b>	PATENT  ART UNIT NO.: <b>2863</b>  EXAMINER: <b>TUNG S. LAU</b>  Attorney Docket No.: <b>WASC1821</b>
--	---

Corral de Tierra, California  
August 9, 2006

I hereby certify that this Response D and the documents referred to as enclosed therein is being FAXED to the Office at 703 872-9306 on August 9, 2006 to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Douglas A. Chaikin  
Typed or printed name of person mailing paper or fee  
  
Signature of person mailing paper

**Petition to Withdraw Holding of Abandonment**

Mail Stop: Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the NOTICE OF ABANDONMENT mailed August 3, 2006, please enter the enclosed Petition under 37 CFR § 1.181 as follows:

PETITION TO WITHDRAW ABANDONMENT  
SER. NO. 09/996,342  
ATTORNEY DOCKET NO.: WASC1821

August 9, 2006

**\* \* \* R \* E \* M \* A \* R \* K \* S \* \* \***

Applicants state that the Notice of Abandonment is in error. On January 20, 2006, Applicants herein filed their Appeal in the above referenced matter. At no time did the Applicants herein withdraw their Appeal. A copy of the 312 Amendment and the Examiner's Interview Summary are attached hereto which clearly show the same and clearly show that the Office received the Appeal Brief no later than January 23, 2006.

Upon receipt of the Notice of Allowance, the undersigned immediately contacted the Examiner in the case and his SPE. The undersigned explained the Appeal had not been withdrawn and was not going to be withdrawn unless all claims were allowed. The Examiner elected not to allow all claims and as a result, the Appeal continues.

During the initial discussion with the Examiner's SPE, the SPE requested that Applicants file a 312 amendment which clearly reflected which claims were continuing on Appeal. Despite the undersigned's feeling that this was unnecessary because the Appeal Brief more than adequately took care of that aspect of the case, the undersigned nevertheless filed that attached 312 Amendment.

Subsequent to the undersigned's Interview with the Examiner's SPE, John Barlow, the Examiner telephoned the undersigned to apologize for the misunderstanding that led to the erroneous Notice of Allowance. The Examiner further assured the undersigned that the Notice of Allowance would be withdrawn. No such withdrawal was ever received by the undersigned.

***Conclusion***

Thus, through no fault of the Applicants or the undersigned, a Notice of Abandonment was generated in this matter. The Notice was improper and should

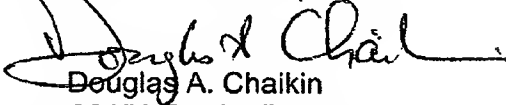
**PETITION TO WITHDRAW ABANDONMENT**  
**SER. NO. 09/996,342**  
**ATTORNEY DOCKET NO.: WASC1821**

**August 9, 2006**

immediately be withdrawn and the Appeal should be expedited. The same is respectfully requested.

Respectfully submitted,

**PENINSULA IP GROUP**  
A Professional Law Corporation

  
Douglas A. Chaikin  
26150 Bucks Run  
Corral de Tierra, California 93908  
Reg. No. 29,140  
(831) 809-2000

USPTO 3/27/2006 1:00 PM PAGE 1/001 FAX 831 886 2488  
 TO: Auto-reply fax to 831 886 2488 COMPANY:

## Auto-Reply Facsimile Transmission



TO: Fax Sender at 831 886 2488  
 Fax Information  
 Date Received: 3/27/2006 1:01:36 PM [Eastern Standard Time]  
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Received  
 Cover  
 Page

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03/27/2006 10:04 FAX 831 886 2488 006/018 IP GROUP 001/010

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Sender : **PENINSULA IP GROUP**  
 Date : **March 27, 2006**  
 To : **United State Patent and Trademark Office**  
 Attention : **312 Examining Branch**  
 Fax Telephone No : **(571) 273-8300**  
 SERIAL NO. : **09/996,342**  
 Enclosed : **Transmittal of 312 Amendment**  
 Number of pages including this cover page: **10**

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*Thank you for your anticipated cooperation.*

03/27/2006 10:04 FAX 831 886 2488 006/018 IP GROUP 001/010



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,342	11/21/2001	Tohmas Eugene Waschura	WASC1821	1977

7590 03/29/2006

DOUGLAS A CHAIKAN, ESQ.  
PENISULA IP GROUP A PROFESSIONAL LAW CORPORATION  
26150 BUCKS RUN  
CORRAL DE TIERRA, CA 93908

EXAMINER

LAU, TUNG S

ART UNIT	PAPER NUMBER
----------	--------------

2863

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Interview Summary</b>	Application No.	Applicant(s)	
	09/996,342	WASCHURA ET AL.	
	Examiner	Art Unit	
	Tung S. Lau	2863	

All participants (applicant, applicant's representative, PTO personnel):

(1) John Barlow.

(3) Tung S. Lau.

(2) Douglas Chaikin # 29,140.

(4) \_\_\_\_\_.

Date of Interview: 27 March 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: see below.

Identification of prior art discussed: N/A.

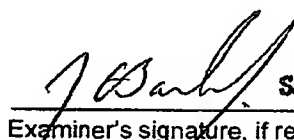
Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The applicant will file a 312 amendment to put back the original claim for appeal, the amendment was intended for 11/376,485 and not for 09/996,342, the examiner call Mr. Douglas Chaikin on March 27, 2006, reconfirming the applicant's intention, the applicant agree to file a 312 amendment to put back the claims for appeal (filed on 01/23/2006).

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
John Barlow  
Supervisory Patent Examiner  
Technology Center 2800  
Examiner's signature, if required



### Summary of Record of Interview Requirements

#### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

#### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.